

JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

TOMAS SARINANA JR.,  
  
Petitioner,  
  
v.  
  
STATE OF CALIFORNIA,  
  
Respondent.

Case No. CV 23-07572-VBF (SHK)

**ORDER DISMISSING PETITION  
FOR WRIT OF HABEAS CORPUS  
WITHOUT PREJUDICE**

**I. INTRODUCTION**

On July 31, 2023, Petitioner Tomas Sarinana Jr. (“Petitioner”) constructively filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 (the “Petition” or “Pet.”).<sup>1</sup> Electronic Case Filing Number (“ECF No.”) 1, Pet. On October 10, 2023, the Court issued an order requiring Petitioner to show cause why the Petition should not be dismissed due to Petitioner’s failure to exhaust his state court remedies. ECF No. 6, Order to Show Cause. On November 20, 2023, Petitioner

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<sup>1</sup> Petitioner’s failure to name the proper Respondent, *see* 28 U.S.C. § 2242 (“[the application for writ of habeas corpus] shall allege . . . the name of the person who has custody over him”); 28 U.S.C. § 2243 (“[t]he writ . . . shall be directed to the person having custody of the person detained”), is moot given the Court’s decision that this Petition must be dismissed.

1 filed a Response to the OSC. ECF No. 16, Response to OSC. For the reasons set  
2 forth in this Order, the Court orders the Petition Dismissed Without Prejudice.<sup>2</sup>

## 3 II. BACKGROUND

4 Based on the allegations set forth in the Petition, it appears that Petitioner is  
5 a pro se pre-trial detainee pending trial on criminal charges in the Los Angeles  
6 County Superior Court. ECF No. 1, Pet. at 2-5. Petitioner alleges that as part of  
7 his pre-trial proceedings, he sought discovery related to the Drug Enforcement  
8 Administration's investigation of his case pursuant to, among other grounds, Brady  
9 v. Maryland, 373 U.S. 83 (1963), which the trial court denied. Id. at 2-3.

10 Petitioner contends that he appealed this ruling to the California Court of Appeal,  
11 which denied his appeal. Id. at 1, 61. He has also attached a document on  
12 letterhead from the California Supreme Court dated June 9, 2023, which reflects  
13 that that Court returned his unfiled documents received on June 9, 2023, as it had  
14 lost jurisdiction to act on any petition for review after May 18, 2023. Id. at 63.

## 15 III. DISCUSSION

16 As an initial matter, 28 U.S.C. § 2254(a) provides that: “[A] district court  
17 shall entertain an application for a writ of habeas corpus in behalf of a person in  
18 custody *pursuant to the judgment of a State court* only on the ground that he is in  
19 custody in violation of the Constitution or laws or treaties of the United States.”  
20 (emphasis added.) By his own admission, Petitioner is a pre-trial detainee. ECF  
21 No. 1, Pet. at 2. In other words, there is no judgment of a State court to challenge  
22 by way of a petition for writ of habeas corpus. Further, Petitioner is a criminal  
23 defendant in an *ongoing* state criminal action.

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<sup>2</sup> Petitioner's Motion for Preliminary Injunctive Relief filed on November 30, 2023 is denied. ECF No. 18, Motion for Preliminary Injunctive Relief. Petitioner is not entitled to a default judgment in this matter due to the prison officials allegedly rejecting and returning legal mail.

1           **A.     Exhaustion**

2                   1.     Legal Standard

3           State prisoners must exhaust their state court remedies before a federal court  
4 may consider granting habeas corpus relief. 28 U.S.C. § 2254(b)(1)(A);  
5 O’Sullivan v. Boerckel, 526 U.S. 838, 842 (1999). To satisfy the exhaustion  
6 requirement, habeas petitioners must fairly present their federal claims in the state  
7 courts in order to give the State the opportunity to pass upon and correct alleged  
8 violations of prisoners’ federal rights. Duncan v. Henry, 513 U.S. 364, 365 (1995)  
9 (per curiam). Habeas petitioners must give the state courts “one full opportunity”  
10 to decide a federal claim by carrying out “one complete round” of the state’s  
11 appellate process in order to properly exhaust a claim. O’Sullivan, 526 U.S. at  
12 845.

13           To properly exhaust habeas claims, petitioners in California state custody  
14 must “fairly present” their claims in petitions to the California Supreme Court.  
15 Gatlin v. Madding, 189 F.3d 882, 888 (9th Cir. 1999) (applying O’Sullivan to  
16 California). A claim has been fairly presented only if the petitioner has indicated  
17 to the court that the claim is based on federal law. Lyons v. Crawford, 247 F.3d  
18 904 (9th Cir. 2001) (as amended).

19                   2.     Application

20           Petitioner is a pre-trial detainee, has not sustained any conviction from  
21 which he is seeking relief under § 2254, and is not subject to a final judgment in  
22 state court. In the absence of a final judgment in state court and the resolution of  
23 state court appeals and/or collateral challenges related to that conviction, it cannot  
24 be said that Petitioner has exhausted his state court remedies. Cf. Sherwood v.  
25 Tomkins, 716 F.2d 632, 634 (9th Cir. 1983) (noting that in most cases, if the  
26 petitioner’s direct criminal appeal is still pending in the state courts, then the  
27 petitioner has not exhausted his state remedies.) In his Response to the OSC,  
28 Petitioner claims that the California Supreme Court rejected his filing in error

1 because it did not honor the mailbox rule, and thus he meets the “technical  
 2 requirement” for exhaustion. ECF No. 10, Response at 12-13. This does not  
 3 correct the failure to exhaust issue before this Court because what Petitioner must  
 4 exhaust under 28 U.S.C. § 2254 is the final judgment and *there is no final*  
 5 *judgment* in this matter.<sup>3</sup>

## 6 **B. Younger v. Harris**

### 7 1. Legal Standard

8 Generally, federal courts must abstain from interfering with ongoing state  
 9 criminal proceedings. See Younger v. Harris, 401 U.S. 37, 43-45 (1971). As a  
 10 matter of comity and federalism, Younger abstention is required when: (1) state  
 11 judicial proceedings are ongoing; (2) the state proceedings involve important state  
 12 interests; (3) the state proceedings provide a full and fair opportunity to litigate the  
 13 federal constitutional claims; and (4) the relief requested seeks to enjoin or has the  
 14 practical effect of enjoining the ongoing state judicial proceedings. Ohio Civil  
 15 Rights Comm’n v. Dayton Christian Sch., Inc., 477 U.S. 619, 626-28 (1986);  
 16 Arevalo v. Hennessy, 882 F.3d 763, 765 (9th Cir. 2018). As a threshold condition  
 17 to the above requirements, “Younger applies only when the relief the plaintiff  
 18 seeks in federal court would ‘interfere’ with the ongoing state judicial proceeding.”  
 19 Green v. City of Tucson, 255 F.3d 1086, 1094 (9th Cir. 2001) (en banc).<sup>4</sup>

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23 <sup>3</sup> The Court observes that “a habeas petitioner attacking his pretrial detention should [seek] relief  
 24 under § 2241, not § 2254.” Stow v. Murashige, 389 F.3d 880, 886 (9th Cir. 2004). Still, the  
 25 federal court must adhere to the Younger abstention doctrine in deciding whether it may  
 adjudicate a § 2241 Petition. See, e.g., Rasmussen v. Garrett, 489 F. Supp. 3d 1131, 1153-1154  
 (D. Or. 2020).

26 <sup>4</sup> Green was overruled in part by Gilberston v. Albright, 381 F.3d 965, 968 (9th Cir. 2004) as  
 27 follows: “[F]ederal courts should not dismiss actions where damages are at issue; rather,  
 damages actions should be stayed until the state proceedings are completed. To this extent we  
 28 recede from our statements in Green v. City of Tucson, 255 F.3d 1086, 1098, 1102 (9th Cir.  
 2001) (en banc), that direct interference is a threshold requirement, or element, of Younger  
 abstention, and that Younger only precludes, but does not delay, the federal court action.”

1                   2.     Application

2             Here, all four of the criteria under Younger are present and compel this  
3 federal court to abstain from adjudicating the issue raised in this action. First,  
4 Petitioner is currently a defendant in an ongoing criminal prosecution initiated by  
5 the state. He is attempting to invalidate a pre-trial ruling by the trial court relating  
6 to the production of discovery for that criminal trial. This state action against  
7 Petitioner was pending at the time this action was filed. Columbia Basin Apt.  
8 Ass’n v. City of Pasco, 268 F.3d 791, 799 (9th Cir. 2001). Second, the state  
9 proceedings involve important state interests – the order and integrity of its  
10 criminal proceedings without interference from a federal court. See Kelly v.  
11 Robinson, 479 U.S. 36, 49 (1986) (“[T]he States’ interest in administering their  
12 criminal justice systems free from federal interference is one of the most powerful  
13 of the considerations that should influence a court considering equitable types of  
14 relief.”) (citation omitted). Third, the state proceedings will provide Petitioner  
15 with a full and fair opportunity to litigate his federal constitutional claims – by  
16 virtue of a direct appeal and/or a collateral challenge in state court. See Pennzoil  
17 Co. v. Texaco, Inc., 481 U.S. 1, 15 (1987) (the federal court should assume that  
18 state procedures afford an adequate remedy to consider federal claims absent  
19 “unambiguous authority to the contrary”). Fourth, this Federal Habeas Court’s  
20 ruling on this pre-trial discovery issue would interfere with the trial proceedings.  
21 Cf. Arevalo, 882 F.3d at 766 (finding that regardless of how the habeas challenge  
22 to the bail issue were resolved, “the prosecution will move forward unimpeded”).

23             As an exception to the abstention rule described in Younger, a habeas  
24 petitioner may file a federal habeas petition before the state court issues a final  
25 judgment of conviction when asserting a violation of the Double Jeopardy Clause.  
26 See Mannes v. Gillespie, 967 F.2d 1310, 1312 (9th Cir. 1992). Petitioner here  
27 does not raise a double jeopardy claim.  
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1       Because the Younger requirements are satisfied, this Court must abstain  
2 from considering the Petition absent extraordinary circumstances. See Middlesex  
3 Cnty. Ethics Comm. v. Garden State Bar Ass’n, 457 U.S. 423, 431 (1982). There  
4 are three exceptions to the Younger abstention doctrine: (1) when there is evidence  
5 of state proceedings motivated by bad faith; (2) when irreparable injury would  
6 occur; or (3) when there was no adequate alternative state forum where the  
7 constitutional issues can be raised. See San Jose Silicon Valley Chamber of  
8 Commerce Political Action Comm. v. City of San Jose, 546 F.3d 1087, 1092 (9th  
9 Cir. 2008) (“An exception to that general rule exists if there is a ‘showing of bad  
10 faith, harassment, or some other extraordinary circumstance that would make  
11 abstention inappropriate.’”) (citing Middlesex, 457 U.S. at 435).

12       Petitioner has not made any showing of bad faith or irreparable injury. See,  
13 e.g., Younger, 401 U.S. at 46 (finding that “[c]ertain types of injury, in particular,  
14 the cost, anxiety, and inconvenience of having to defend against a single criminal  
15 prosecution, could not by themselves be considered ‘irreparable’ in the special  
16 legal sense of that term”). As to the third consideration -- when there is no  
17 adequate alternative state forum where the constitutional issues can be raised –  
18 there is no evidence that this is the situation at hand. Petitioner challenges a pre-  
19 trial discovery ruling from the trial court and by the California Court of Appeal’s  
20 own finding, Petitioner will have an opportunity to challenge that ruling on direct  
21 appeal. For these reasons, the Court finds that it must dismiss this Petition  
22 pursuant to Younger.

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1 **IV. CONCLUSION**

2 For these reasons, the Petition is dismissed without prejudice.

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4 Dated: May 24, 2024

5   
6 HON. VALERIE BAKER FAIRBANK  
7 United States District Judge  
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9 Presented by:

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12 HON. SHASHI H. KEWALRAMANI  
13 United States Magistrate Judge  
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